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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/633,290 | 08/01/2003 | Aman Gupta | GEMS8081.168 | 3334 |

27061 7590 11/21/2006

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EXAMINER

TIMBLIN, ROBERT M

ART UNIT PAPER NUMBER

2167

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/633,290 | Applicant(s) GUPTA ET AL. | |
| | Examiner Robert M. Timblin | Art Unit 2167 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action corresponds to application 10/633,290 filed 8/1/2003.

Claims 1-21 have been canceled and new claims 22-37 are pending.

Response to Amendment

Specification

The Examiner thanks the applicant for indicating the field of invention paragraph not being mandatory. The cross reference to a prior-filed application has also been realized. All objections to the specification therefore have been withdrawn.

Drawings

The Examiner thankfully accepts the amendments to the specification for correction to the drawings as requested. Accordingly, the objections thereto have been withdrawn.

Priority

Objection to priority has been withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The Examiner thanks the Applicant's for the explanation of claims 22-28 being a method claim and thus one of the for statutory categories of invention.

However, claims 33-37 remain rejected under 35 USC 101 because they purport to computer signals, which do not belong to any of the 4 enumerated statutory classes of invention.

Specifically, the cited MPEP section of 2106 (IV)(B)(1)(c) is no longer supported in the MPEP. Furthermore, These claims are not statutory because claims that recite nothing but the physical characteristics of a form of energy such as frequency, voltage, or the strength of a magnetic field, defined energy or magnetism, per se and as such are nonstatutory natural phenomena. O'Reilly 56 U.S. at 112-114. Moreover it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in 35 USC section 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 24, 26-31, 33-34, and 36-39 are rejected under 35 U.S.C. 102(e) as being unpatentable over **Kennedy et al.** ('Kennedy' hereinafter) (U.S. Patent 6,963,847 B1) in view of **Kennedy et al.** ("Kennedy 2" hereinafter) (U.S. Patent 6,055,519).

With respect to claim 22, **Kennedy** teaches an automated method for visually displaying product production information and notifications in real-time comprising:

automatically querying a database for production data for each order scheduled for a production that includes '**a product category of each order**' as grouping of products (col. 12, lines 45-50) '**a promised shipping date for each order**' as a promise by date (col. 12 lines 34-35), '**a requested shipping date for each order** as a request date (col. 12 lines 42-44), and an '**expected sales revenue for each order**' as line-item price and resulting quotation (col. 12, lines 50-53) by a seller in real time.

'**automatically determining a shipment quality metric for all orders that have shipped**' as calculating delivery coordination according to individual ATP requests and shipment confirmation (col. 25, lines 25-39 and col. 33, lines 42-55).

'**automatically displaying generated proactive alerts** as proactive shipment notifications (col. 33, lines 33-40), **the number of orders** (order quantity; col. 7 lines 40-45) **for each product category** ((3) category; col. 7 lines 35-36)), **the expected revenue for each order** as a total price (col. 20, lines 60-65) **and the shipment quality metric in a tabular format on a user viewable medium**' as multi-dimensional quotation 36 (col. 19, line 34-35).

Kennedy 2, however, teaches **'for each order, automatically comparing the promised shipping date and the requested shipping date'** as in column 7, lines 54-67 and column 14, lines 52-65.

'for each order, automatically generating a proactive alert if the promised shipping date is later than the requested shipping date' as a notification of an uncoordinated delivery (at least in col. 7 lines 55-60 and col. 17 lines 59-61) for indicating delivery schedule problems.

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teachings of the **Kennedy 2** reference would have given **Kennedy** further aid in the over all aspects of conducting and tracking of negotiations of the product (**Kennedy 2** at column 2, lines 41-47). With respect to claims 24-37, **Kennedy** teaches **'a plurality of display forms, wherein each display form depends on a number of days before the product is available'** (col. 2, lines 28-40).

With respect to claim 26, the limitations of this claim are similar to those set forth in claim 22 above in view of **Kennedy**. Therefore, claim 26 is rejected for the same reasons.

Further, **Kennedy** teaches **'a sum of products in productions and a sum of products in production for each product category'** as Individual line-item quotes can be computed, then combined (col. 17, lines 15-32).

Art Unit: 2167

'sum of projected revenue for each product in production' as a total price (col. 20, lines 60-65).

With respect to claim 27, Kennedy teaches the one or more programs further causes the one or more computers to:

query the database for saleable products in inventory as product availability (abstract) ; **and**

determine the date each saleable product is available for shipment as an offered date-date quantity will be available, which may represent the shipment date (col. 21, lines 25-27);

With respect to claim 28 and similar claim 38, Kennedy teaches to **'determine a number of days between a current date and the date each saleable product is available for shipment'** (col. 17, lines 30).

Kennedy fails to disclose display a user-defined message for each determined number of days.

Kennedy 2, however, teaches this limitation as the policies in column. 11 and the identified problems at least described in column 17 line 58-col. 18, line 9.

With respect to claim 29, Kennedy teaches **'a first message is displayed if the number of days before the product is available is greater than a user-defined number and a second message is displayed if the number of days before the**

product is available is less than a user-defined number' as the user may specify the desired due dates (col. 10, lines 40-50). Furthermore, the fulfillment server uses the ship on-time parameter to process early or late component promises (col. 11, lines 38-58).

With respect to claim 30, **Kennedy** teaches **'the shipment quality metric is process to provide a statistical measure of process capability'** (col. 25, lines 17-31).

With respect to claim 31, **Kennedy** teaches **'the shipment quality metrics are regularly re-processed'** (col. 32, lines 25-35).

With respect to claim 33, the limitations of this claim are similar to those set forth in claims 22, and 26 above in view of **Kennedy**. Therefore, claim 33 is rejected for the same reasons.

Further, **Kennedy** teaches **'calculate a number of days between a current date and the projected shipping date to create a number of days before the product is available'** as an offered date (col. 21, lines 25-30).

With respect to claims 34 and 36, the limitation of this claim has been addressed in claims 22 and 26, and therefore rejected for the same reason. Further, **Kennedy** teaches **'one or more processors'** (col. 5, lines 59-62).

Claim 39 is rejected under the same rationale as the above claims by Kennedy in view of Kennedy 2.

Claims 23, 25, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kennedy** and **Kennedy 2** as applied to claims 22, 24, 26-31, 33-34, and 36-39 above and further in view of **Tucker et al.** ('Tucker' hereinafter) (US 5,452,218).

With respect to claims 23 and similar 32, the Kennedy fails to teach the shipment quality metric formula:

$$Z_{LT} = \min \left[\frac{USL - \mu}{\sigma}, \frac{\mu - LSL}{\sigma} \right]$$

Tucker, however, teaches the above formula (col. 3 lines 15-29 and fig 7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of **Tucker** would have provided Kennedy's system with producing a measure of quality (Tucker, abstract).

With respect to claim 25, Kennedy fails to teach the claimed determining an acceptance range and displaying a percentage of items the shipment quality metric is outside the acceptance range.

Tucker, however, teaches '**determining an acceptance range**' as a mean or DPMO (col. 3, lines 30 and fig. 7)

‘displaying a percentage of items the shipment quality metric is outside the acceptance range’ as a standard deviation (col. 3, lines 30 and fig. 7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of **Tucker** would have provided Kennedy’s system with producing a measure of quality (Tucker, abstract).

With respect to claim 35, Kennedy fails to teach the claimed quality metric is a statistical value calculated and displayed is a projected defect in parts per million.

Tucker, however, teaches the claimed **‘quality metric is a statistical value calculated and displayed is a projected defect in parts per million’** as DPMO (col. 3 lines 16-20, col. 5 lines 20-25, and figures 6a-7).

It would have been obvious to one of ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because the teaching of **Tucker** would have provided Kennedy’s system with producing a measure of quality (Tucker, abstract).

Response to Arguments

Applicant’s arguments with respect to claims 22, 26, and 33 have been fully considered but they are not persuasive.

On page 10 of the arguments filed 5/24/2006, the Applicant's argue that Kennedy fails to teach or suggest automatically displaying generated proactive alerts, the number of orders for each product category, the expected revenue for each order, and the shipment quality metric in a tabular format. The Examiner respectfully disagrees as Kennedy still teaches '**automatically displaying generated proactive alerts** as proactive shipment notifications (col. 33, lines 33-40), **the number of orders** (order quantity; col. 7 lines 40-45) **for each product category** ((3) category; col. 7 lines 35-36)), **the expected revenue for each order** as a total price (col. 20, lines 60-65) **and the shipment quality metric in a tabular format on a user viewable medium**' as multi-dimensional quotation 36 (col. 19, line 34-35).

On page 10 of the arguments filed 5/24/2006, the Applicant's argue that Kennedy fails to teach the amended comparing a promised shipping date and a requested shipping date for each order. The Examiner contends that Kennedy 2 teaches this limitation in column 7, lines 54-67 and column 14, lines 52-65 as seen above in the rejection

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Timblin whose telephone number is 571-272-5627. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean R. Homere can be reached on 571-272-3780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

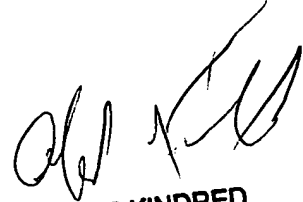
Art Unit: 2167

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert M. Timblin

Patent Examiner AU 2167

RMT
2/9/2006



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